

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

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FRANCISCO CASTILLO-CELAYA

§
§
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§
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v.

2:16-CV-0026

UNITED STATES GOVERNMENT

**ORDER OVERRULING OBJECTIONS,
ADOPTING REPORT AND RECOMMENDATION, and
DISMISSING MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE**


Came for consideration the motion to vacate, set aside or correct sentence by a person in federal custody filed by petitioner. On February 29, 2016, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that the instant motion be dismissed. On March 11, 2016, petitioner filed a document wherein he stated his appellate counsel filed an *Anders* brief with the Fifth Circuit but that he had not received a response from that court. (Dkt. 5). Petitioner further stated, "I consider it [the appeal] dismissed, and ask you to accept my motion under 28 U.S.C. § 2255." It appears petitioner is requesting the Court to consider his appeal terminated and to proceed with his habeas application. A review of the Fifth Circuit docket, however, shows petitioner's appeal to be pending. The Court considers petitioner's March 11, 2016 correspondence to constitute objections to the Report and Recommendation.

Having made an independent examination of the record in this case and having examined the Report and Recommendation of the Magistrate Judge, the undersigned United States District Judge hereby OVERRULES petitioner's objections, and ADOPTS the Report and Recommendation. Accordingly, the Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence filed by

petitioner is, in all things, DISMISSED.

IT IS SO ORDERED.

ENTERED this 21st day of March 2016.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE